AMENDMENT UNDER 37 C.F.R. § 1.114(c)
U.S. Application No. 09/996,308

REMARKS

Claims 1-22 are all the claims pending in the application. Claims 1, 10, 15-22 are being amended. No new matter has been introduced.

Claim Rejections - 35 U.S.C. 103(a)

The Examiner has rejected claims 1-22 under 35 U.S.C. §103(a) as being allegedly unpatentable over Raab et al. (USP 5,751,967) over Schumacher (USP6,735,765). Applicant respectfully traverses this rejection in view of Applicant's amendments to independent claims 1, 10, 15, 18-22 and further in view of the following arguments.

Specifically, the amended independent claims 1, 10, 15 and 18-22 generally recite a feature of the claimed invention, wherein the storage device is operable to provide storage resources for storing user data over a network to at least one network entity. This claimed feature of the present invention is not taught or suggested in Raab et al. or Schumacher.

In the Office Action, the Examiner reads the claimed data storage device on the mass storage device 207 of the network control engine NCE 210 shown in Fig. 2 of Raab et al. In the Response to Arguments portion, at page 17, paragraph 45, of the Office Action, the Examiner further alleges that the aforesaid mass storage device 207 of Raab et al. stores network configuration policy information, which, in Examiner's opinion, is accessible over network to other network entities. In support of this proposition, the Examiner cites Raab et al. at col. 6, lines 26-58. In response, without admitting the correctness of the Examiner's characterization of teachings of Raab et al., Applicant amends claims 1, 10, 15 and 18-22 to clarify that the claimed data storage device is operable to provide storage resources for storing user data over a network

to at least one network entity. As the Examiner would appreciate, the storing of user data recited in the amended claims is radically different from storing network configuration policy information. Thus, the data storage device recited in the amended claims is entirely different from the mass storage device 207 of the network control engine NCE 210 of Raab et al. The second applied reference, Schumacher, fails to remedy the aforesaid deficiency of Raab et al. by also failing to disclose the claimed storage device providing storage resources for storing user data over a network to at least one network entity. Therefore, the amended claims 1, 10, 15 and 18-22 are patentable over Raab et al. and Schumacher at least for this reason alone.

In addition, even if, as the Examiner suggests, the mass storage device 207 of the network control engine NCE 210 shown in Fig. 2 of Raab et al. did in fact store the network configuration policy information and was in fact accessible by other network entities, this device still does not provide storage resources for storing data over a network to at least one network entity. Specifically, Raab et al. never mentions that any other network entities can store data in the mass storage device 207 of the network control engine NCE 210. Therefore, because the mass storage device 207 of the network control engine NCE 210 does not provide storage resources for storing data over a network to at least one network entity, claims 1, 10, 15 and 18-22 are not unpatentable over Raab et al. and Schumacher for this additional reason as well.

Yet additionally, Applicant respectfully point out that the mass storage device 207 of the network control engine NCE 210 of Raab et al. is provided for internal use of the network control engine NCE 210 and is neither accessible by other network entities nor provides storage resources for other network entities, as recited in the claims 1, 10, 15, 18-22. The portion of

Raab et al. at col. 6, lines 26-58, cited by the Examiner is silent regarding the alleged accessibility of the mass storage device 207 by other members of the network. "[W]hen the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference." In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (citing In re Yates, 663 F.2d 1054, 211 USPQ 1149, 1151 (CCPA 1981)). Despite Applicant's numerous arguments and several Office Actions, the Examiner still failed to point out where specifically Raab et al. teaches that the mass storage device 207 is accessible by other network entities. Thus, claims 1, 10, 15, 18-20 and 22 are patentable for this additional reason as well.

Furthermore, Applicant respectfully submits that neither Raab nor Schumacher, nor combination thereof, disclose the claimed mapping of the VLAN into the virtual volume. In the Office Action, the Examiner alleges that Raab et al. teaches correspondence between at least one segment of a VLAN and at least one or plurality of storage devices, see Office Action, Page 3, paragraph 5. Applicant respectfully submits that this is not what the pending claims recite. Specifically, the independent claims 1, 10, 15 and 18-22 generally recite mapping of the VLAN segment into the virtual volume. In this regard, Applicant respectfully submits that the Examiner is required to apply the prior art to the pending claims and not to hypothetical limitations created by the Examiner himself. The aforesaid feature of the invention, which is in fact recited by the pending claims, is not taught or even suggested by either Raab et al. or Schumacher. Specifically, Raab et al. never mentions the claimed virtual volume and does not teach mapping the VLAN segment into the virtual volume. The second applied reference, Schumacher, is not

even related to the VLAN technology, and, thus is also devoid of the requisite teaching. In this regard, Applicant respectfully submits that the aforementioned limitation recited in claims 1, 10, 15 and 18-22 may not be replaced by limitations created by the Examiner and that all words in the pending claims must be considered in evaluating the patentability of the invention over the prior art. Ochiai et al., 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995). Therefore, claims 1, 10, 15, 18-20 and 22 are additionally patentable because neither of the cited references teaches or suggests the claimed mapping of the VLAN into the virtual volume.

For all the foregoing reasons, the amended independent claims 1, 10, 15, 18-20 and 22 are patentable.

With respect to rejection of dependent claims 2-9, 11-14 and 16-17, while continuing to traverse the Examiner's characterization of the teachings of Raab et al. and Schumacher used by the Examiner in rejecting those claims, Applicant respectfully submits that the rejection of those claims has been rendered moot by virtue of Applicant's amendments to the parent independent claims 1, 10 and 15 and that these claims are patentable by definition, due to their dependency upon the respective patentable parent claims . Therefore, claims 2-9, 11-14 and 16-17 are also patentable.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Atty. Docket No. CA1469
PATENT APPLICATION

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Respectfully submitted,

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23493
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Date: January 22, 2007

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT UNDER 37 C.F.R. § 1.114(c) is being facsimile transmitted to the U.S. Patent and Trademark Office this 22nd day of January, 2007.

Monica Moreno